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OFFICE OF PETITIONS

In re Application of :
Beers et al. :
Application No. 09/107,141 : **ON PETITION**
Filed: 30 June, 1998 :
Attorney Docket No. 016499-546 :

This is a decision in reference to the petition under 37 CFR 1.137(b) filed on 19 April, 2004, which is first treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

This application was held abandoned on 18 September, 2003, for failure to timely provide a copy of the complete file as required by the Notice Under 37 CFR 1.251 - Pending Application, mailed on 17 June, 2003, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 13 January, 2004.

Petitioners assert that a response to the Notice mailed on 17 June, 2003, was timely filed. In support, petitioners have provided a copy of an itemized postcard receipt, identifying the application by application number, and first named inventor's name, itemizing the filing of *inter alia*, Notice Under 37 CFR 1.251 - Copy of Application, bearing an Office-date stamp of 27 August, 2003. Petitioners have also provided a copy of the response filed on 27 August, 2003, consisting of a complete copy of applicants' file. The reply also bears a Certificate of Mailing signed by Julie Turner and dated 25 August, 2003.

The petition complies with the requirements set forth in MPEP 1.8(b) and MPEP 503.

Accordingly, the holding of abandonment withdrawn. The Notice of Abandonment mailed on 13 January, 2004, was sent in error and is vacated. In view thereof, the petition fee is unnecessary and will be refunded to counsel's deposit account, No. 01-1375 as authorized in the present petition.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



Douglas I. Wood
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Office of Petitions